

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
EASTERN DIVISION**

**UNITED STATES LIFE INSURANCE)
COMPANY OF AMERICA IN THE)
CITY OF NEW YORK,)**

Plaintiff,)

v.)

CV : 3:07-cv-01071-WKW

RONNIE JAMES HERRING, MD,)

Defendant.)

**PLAINTIFF UNITED STATES LIFE INSURANCE COMPANY OF
AMERICA IN THE CITY OF NEW YORK'S
MOTION TO DISMISS DEFENDANT'S COUNTERCLAIMS**

Plaintiff United States Life Insurance Company of America in the City of New York ("U.S. Life"), through its undersigned counsel, moves this Court to dismiss all of Defendant's counterclaims pursuant to Federal Rule of Civil Procedure 12(b)(6).

As grounds for this motion, U.S. Life states that Defendant misapprehends the nature of U.S. Life's declaratory judgment action, as he raises allegations relating to Defendant's "own occupation" disability policy which has nothing to do with the issues before this Court. Further, each of Defendant's counterclaims is due to be dismissed for the reasons fully set out in U.S. Life's memorandum brief

which is filed in conjunction with this motion.

Filed this 17th day of January 2008.

/s/ Michael D. Mulvaney
Michael D. Mulvaney)
Grace L. Kipp
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Life Insurance Company of America
in the City of New York

OF COUNSEL

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CERTIFICATE OF SERVICE

I hereby certify that a copy of the above and foregoing pleading has been served upon the following listed persons by Electronic Mail, this the 17th day of January, 2008.

Christopher E. Sanspree
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603 Martha Street
Montgomery, Alabama 36104

/s/ Michael D. Mulvaney
OF COUNSEL